

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MARY STRUBLE, As Conservator for CS,
Plaintiff,
v.
FALLBROOK UNION HIGH SCHOOL
DISTRICT, a Local Educational Agency,
Defendant.

Civil No. 07cv2328-LAB (CAB)

**ORDER REGARDING EX PARTE
APPLICATION TO CONTINUE EARLY
NEUTRAL EVALUATION
CONFERENCE
[Doc. No. 14]**

On February 6, 2008, defendant FALLBROOK UNION HIGH SCHOOL DISTRICT (“defendant”) filed an ex parte application to continue the early neutral evaluation (“ENE”) conference. [Doc. No. 14.] On February 7, 2008, plaintiff MARY STRUBLE (“plaintiff”) filed an opposition to the application. [Doc. No. 16.] After reviewing the application and the opposition, **AND GOOD CAUSE APPEARING THEREFOR**, the Court **HEREBY ORDERS**:

1. The ENE Conference set for February 12, 2008, at 2:00 p.m. is hereby vacated. Instead, there will be a telephonic, attorneys only, ENE Conference on **February 14, 2008, at 9 a.m.** Counsel for defendant shall coordinate and initiate the conference call by first calling plaintiff’s counsel at (858) 342-8360 and then calling into the chambers of United States Magistrate Judge Bencivengo at (619) 557- 7688.

2. There will be a Mandatory Settlement Conference on **February 29, 2008, at 2:00 p.m.**, in the chambers of United States Magistrate Judge Bencivengo. Pursuant to Local Civil Rule 16.3, all party representatives and claims adjusters for insured defendants with full and

1 unlimited authority¹ to negotiate and enter into a binding settlement, as well as the principal
2 attorney(s) responsible for the litigation, must be present and legally and factually prepared to
3 discuss and resolve the case at the mandatory settlement conference. Retained outside corporate
4 counsel shall not appear on behalf of a corporation as the party who has the authority to negotiate
5 and enter into a settlement. Failure to attend the conference will be considered grounds for
6 sanctions.

7 3. Given that the parties have already submitted confidential Early Neutral Evaluation
8 conference statements, no further briefing is required for the Mandatory Settlement Conference.

9 **IT IS SO ORDERED.**

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11 DATED: February 8, 2008

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14 **CATHY ANN BENCIVENGO**
15 United States Magistrate Judge
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25 ¹ “Full authority to settle” means that the individuals at the settlement conference must be authorized to
26 fully explore settlement options and to agree at that time to any settlement terms acceptable to the parties.
27 Heileman Brewing Co., Inc. v. Joseph Oat Corp., 871 F.2d 648 (7th Cir. 1989). The person needs to have
28 “unfettered discretion and authority” to change the settlement position of a party. Pitman v. Brinker Intl., Inc., 216 F.R.D. 481, 485-486 (D. Ariz. 2003). The purpose of requiring a person with unlimited settlement authority to attend the conference includes that the person's view of the case may be altered during the face to face conference. Id. at 486. A limited or a sum certain of authority is not adequate. Nick v. Morgan's Foods, Inc., 270 F.3d 590 (8th Cir. 2001).